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14 MARIA TRINIDAD LOPEZ

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 MARIA TRINIDAD LOPEZ,
18 Plaintiffs,

19 v.

20 AMERICAN HOME ASSURANCE
21 COMPANY and DOES 1 through 50, inclusive
22 Defendants.

CASE NO. C07-02464 SBA

**JOINT CASE MANAGEMENT
STATEMENT AND [PROPOSED]
ORDER**

23 Plaintiff Maria Trinidad Lopez and defendant American Home Assurance Company hereby
24 submit their Joint Case Management Statement and Proposed Order.
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I.
JURISDICTION AND SERVICE

This Court has original jurisdiction under 28 U.S.C. § 1332, in that it is a civil action wherein the matter in controversy exceeds the sum of \$75,000 exclusive of interest and costs, and is between citizens of different states.

Lopez filed her complaint in Alameda County Superior Court on December 18, 2006. American Home filed its answer to Lopez's complaint in State court. American Home timely removed this matter to the United States District Court for the Northern District of California on or about May 8, 2007. This case was originally assigned to the Honorable Judge Maria-Elena James. The case was reassigned to Judge Sandra Brown Armstrong on July 12, 2007.

There are no issues regarding personal jurisdiction and venue.

All parties have been served. No additional parties are contemplated at this time.

II.
DESCRIPTION OF THE CASE

This case arises from a dispute over the benefits available under an Accidental Death & Dismemberment ("AD&D") policy issued by American Home. Lopez contends that she is entitled to the AD&D benefits of the policy for the death of her son, Julio Paredes, and that American Home denied the claim in breach of contract and in bad faith. American Home denied her claim and contends that Julio Paredes death was not the result of a bodily injury caused by an accident.

III.
DESCRIPTION OF FACTUAL AND LEGAL ISSUES IN DISPUTE

A. Disputed Factual Issues

1. Whether American Home reasonably investigated Lopez's claim; and,
2. Whether American Home reasonably evaluated Lopez's claim;

B. Disputed Legal Issues

1. Whether American Home breached the insurance contract;
2. Whether American Home breached the implied covenant of good faith and fair dealing; and,
3. Whether American Home engaged in malice, fraud, or oppression as required to

1 support a claim for punitive damages.

2 **C. Other Factual Issues**

3 There are no other factual issues affecting service or additional, unnamed parties.

4 **IV.**
5 **MOTIONS**

6 American Home anticipates filing a motion for summary judgment, or in the alternative,
7 partial summary judgment.

8 At this time, Lopez does not anticipate filing any motions.

9 There are no pending motions at this time.

10 **V.**
11 **AMENDMENT OF PLEADINGS**

12 No amendments are contemplated at this time.

13 **VI.**
14 **EVIDENCE PRESERVATION**

15 The parties agree to take steps to preserve evidence relevant to the issues reasonably evident
16 in this case.

17 **VII.**
18 **DISCLOSURES**

19 The parties will make their initial witness and document disclosures under FRCP 26(a) on or
20 before August 9, 2007.

21 **VIII.**
22 **DISCOVERY**

23 The parties jointly agree to adhere to the discovery limitations outlined in the Federal Rules
24 of Civil Procedure.

25 American Home will propound the following discovery requests: (a) Special Interrogatories;
26 (b) Requests for Production; and, (c) Subpoena Oakland Police Department records. American
27 Home will also depose Lopez and other individuals that may be identified during the course of this
28 litigation.

Lopez will propound the following discovery requests: (a) Special Interrogatories and (b)
Requests for Documents. Lopez will request American Home's claim file. Lopez will depose

1 American Home representatives and other individuals that may be identified during the course of this
2 litigation.

3 The parties further intend to supplement disclosures or discovery responses pursuant to Rule
4 26(e) and will serve and file certification that all supplementation has been completed thirty days
5 prior to the close of discovery.

6 **IX.**
CLASS ACTIONS

7 Not applicable.

8 **X.**
RELATED CASES

9 Not applicable.

10 **XI.**
RELIEF

11 Lopez seeks general, special and punitive damages in an unspecified amount. Lopez also
12 requests attorney's fees incurred in obtaining policy benefits based on Lopez's alleged breach of the
13 implied covenant of good faith and fair dealing.

14 American Home requests that Lopez takes nothing by her complaint. American Home seeks
15 costs of suit incurred herein and such other and further relief as the court deems proper.

16 **XII.**
SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

17 American Home and Lopez are willing to participate in the early neutral evaluation. The
18 parties are discussing mediation as an alternative.

19 **XIII.**
CONSENT TO UNITED STATES MAGISTRATE JUDGE FOR ALL PURPOSES

20 The parties do not consent to assignment of this case to a United State Magistrate Judge.

21 **XIV.**
OTHER REFERENCES

22 Not applicable.

23 **XV.**
NARROWING OF ISSUES

24 Not applicable.

1 **XVI.**
2 **EXPEDITED SCHEDULE**

3 Not applicable.

4 **XVII.**
5 **SCHEDULING**

6 The parties propose the following schedule:

- 7 1. Deadline to complete non-expert discovery: July 25, 2008
8 2. Deadline for hearing dispositive motions: August 22, 2008
9 3. Disclosure of experts: September 26, 2008
10 4. Deadline to complete expert discovery: October 24, 2008
11 4. Deadline for hearing on discovery motions: November 21, 2008
12 6. Pretrial Conference: January 9, 2009
13 7. Trial: February 2, 2009

14 **XVIII.**
15 **TRIAL**

16 This case will be a jury trial and the parties expect the trial will require approximately 5 to 7
17 court days.

18 **XIX.**
19 **DISCLOSURE OF NON-PARTY ENTITIES OR PERSONS**

20 The following listed parties have a direct, pecuniary interest in the outcome of this case.

21 These representations are made to enable the Court to evaluate possible disqualification or recusal.

- 22 1. Maria Trinidad Lopez.
23 2. American Home Assurance Company.
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XX.
ALL OTHER ITEMS

Not applicable.

Dated: 8/9/07, 2007

LAW OFFICE OF ROBERT F. CAMPBELL


By


ROBERT F. CAMPBELL
Attorney for Plaintiff
MARIA TRINIDAD LOPEZ

Dated: 8-9-07, 2007

HAYES DAVIS BONINO ELLINGSON
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By


STEPHEN M. HAYES
STEPHEN P. ELLINGSON
CHERIE M. SUTHERLAND
Attorneys for Defendant
AMERICAN HOME ASSURANCE
COMPANY

CASE MANAGEMENT ORDER

The Case Management Statement and Proposed Order are hereby adopted by the Court as the Case Management Order for the case and the parties are hereby ordered to comply with this Order.

Dated: _____, 2007

SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT COURT
JUDGE FOR THE NORTHERN DISTRICT
OF CALIFORNIA